

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

OPTIS WIRELESS TECHNOLOGY, LLC,
OPTIS CELLULAR TECHNOLOGY, LLIC,
UNWIRED PLANET, LLC, UNWIRED
PLANET INTERNATIONAL LIMITED,
AND PANOPTIS PATENT
MANAGEMENT, LLC.,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 2:19-CV-0066-JRG

JOINT MOTION FOR ENTRY OF A DOCKET CONTROL ORDER

Pursuant to the Court's June 5, 2019 Order (ECF No. 35) and Federal Rule of Civil Procedure 16(b)(4), Plaintiffs Optis Wireless Technology, LLC, Optis Cellular Technology, LLC, Unwired Planet, LLC, Unwired Planet International Limited, and PanOptis Patent Management, LLC and Defendant Apple Inc. (collectively, the Parties) file this motion for entry of a Docket Control Order ("DCO"). A copy of the proposed DCO is attached.

At the Scheduling Conference, this Court set claim construction for February 27, 2020, deadline to file dispositive motions for May 11, 2020, and trial for August 17, 2020. The Parties' proposed changes to the schedule do not affect any of these dates, nor any other date that requires a showing of good cause. The Parties' proposed changes fall into five categories (1) modest changes due to holidays, (2) moving fact discovery deadline up by a week, (3) moving mediation until after completion of expert discovery, (4) allowing for Apple to have an additional week to comply with P.R. 3.3 and 3.4, and (5) provide some time between major deadlines in this case and the *Seven Networks, LLC. v. Apple Inc.*, 2:19-cv-0115 case.

Accordingly, the Parties request that the following deadlines be amended as follows, and as set forth in the accompanying proposed DCO:

| Current Deadline | Proposed Deadline | Action |
|-------------------------|--------------------------|---|
| August 17, 2020 | | *Jury Selection – 9:00 a.m. in Marshall |
| July 20, 2020 | | *Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap |
| July 6, 2020 | | *Notify Deputy Clerk in Charge regarding the date and time by which juror questionnaires shall be presented to accompany by jury summons if the Parties desire to avail themselves the benefit of using juror questionnaires ¹ |
| July 6, 2020 | | *Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference. |
| July 6, 2020 | | *File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations |

¹The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

| Current Deadline | Proposed Deadline | Action |
|-------------------------|--------------------------|--|
| June 29, 2020 | | <p>*File Notice of Request for Daily Transcript or Real Time Reporting.</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.</p> |
| June 22, 2020 | June 19, 2020 | <p>File Motions <i>in Limine</i></p> <p>The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.</p> |
| June 22, 2020 | June 19, 2020 | Serve Objections to Rebuttal Pretrial Disclosures |
| June 8, 2020 | June 5, 2020 | Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures |
| June 1, 2020 | May 29, 2020 | Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof |
| March 26, 2020 | May 28, 2020 | <p>Deadline to Complete Mediation</p> <p>The parties are responsible for ensuring that a mediation report is filed no later than 5 days after the conclusion of mediation.</p> |

| Current Deadline | Proposed Deadline | Action |
|-------------------------|--------------------------|--|
| May 26, 2020 | | *Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. ² Motions for Summary Judgment shall comply with Local Rule CV-56. |
| May 11, 2020 | | *File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court. |
| May 11, 2020 | | *File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court. Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u> |
| May 11, 2020 | | Deadline to Complete Expert Discovery |
| April 20, 2020 | | Serve Disclosures for Rebuttal Expert Witnesses |
| March 30, 2020 | | Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof |

²The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

| Current Deadline | Proposed Deadline | Action |
|-------------------------|--------------------------|---|
| March 30, 2020 | March 23, 2020 | Deadline to Complete Fact Discovery and File Motions to Compel Discovery |
| March 19, 2020 | | Comply with P.R. 3-7 (Opinion of Counsel Defenses) |
| February 27, 2020 | | *Claim Construction Hearing – 1:30 p.m. in Marshall, Texas before Judge Rodney Gilstrap |
| February 13, 2020 | | *Comply with P.R. 4-5(d) (Joint Claim Construction Chart) |
| February 6, 2020 | | *Comply with P.R. 4-5(c) (Reply Claim Construction Brief) |
| January 30, 2020 | | Comply with P.R. 4-5(b) (Responsive Claim Construction Brief) |
| January 16, 2020 | | Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a). |
| January 16, 2020 | | Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline. |
| January 2, 2020 | January 6, 2020 | Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery) |
| December 26, 2019 | December 20, 2019 | File Response to Amended Pleadings |
| December 12, 2019 | | *File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents. |

| Current Deadline | Proposed Deadline | Action |
|-------------------------|--------------------------|--|
| December 5, 2019 | | Comply with P.R. 4-3 (Joint Claim Construction Statement) |
| November 14, 2019 | | Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions) |
| October 24, 2019 | | Comply with P.R. 4-1 (Exchange Proposed Claim Terms) |
| August 12, 2019 | August 19, 2019 | Comply with P.R. 3.3 & 3-4 (Invalidity Contentions) |
| July 22, 2019 | | <p>*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures)</p> <p>The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part.</p> |
| July 15, 2019 | | <p>*File Proposed Docket Control Order and Proposed Discovery Order</p> <p>The Proposed Docket Control Order and Proposed Discovery Order shall be filed as separate motions with the caption indicating whether or not the proposed order is opposed in any part.</p> |
| July 8, 2019 | | Join Additional Parties |
| July 5, 2019 | | *File Notice of Mediator |
| June 17, 2019 | | Comply with P.R. 3-1 & 3-2 (Infringement Contentions) |

The Parties respectfully request that the Court enter the proposed DCO filed herewith.

Respectfully submitted,

Dated: July 15, 2019

/s/ Samuel Baxter

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Respectfully submitted,

Dated: July 15, 2019

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on July 15, 2019 on all counsel who have consented to electronic service.

/s/ Jennifer Truelove

Jennifer Truelove